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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,) Case No. CR 11-00922 DDP (12)
12 Plaintiff,)
13 v.) ORDER DENYING MOTION TO REDUCE
14) SENTENCE RE NON-VIOLENT DRUG
15 KEITH PULLAM,) OFFENSE
16 Defendants.) [DOCKET NUMBER 873]
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Defendant has moved pro se pursuant to 18 U.S.C. § 3582(c)(2) and Amendment 782 to the United States Sentencing Guidelines to have his sentence reduced. (Dkt. No. 873.)

Although courts have discretion in § 3582(c)(2) proceedings to appoint counsel, "there is no statutory or constitutional right to counsel for a § 3582(c) motion or hearing." *United States v. Webb*, 565 F.3d 789, 795 (11th Cir. 2009). Because defendant's motion to have his sentence reduced is meritless, the Court declines to exercise its discretion to appoint counsel. See *United States v. Richardson*, 569 Fed. Appx. 504, 504-05 (9th Cir. 2014) (upholding discretionary decision to not appoint counsel in § 3582©

1 proceedings where "[a]ll of the arguments [defendant] claims he
2 could have presented with the benefit of counsel have either been
3 squarely rejected or severely undermined").

4 Defendant's motion fails because he received a downward departure
5 or variance that resulted in a sentence at or below the low end of
6 his post-Amendment 782 Guidelines range. See *United States v.*
7 *Davis*, 739 F.3d 1222, 1224-26 (9th Cir. 2014) (holding that USSG §
8 1B1.10(b) "prohibits a court from reducing a defendant's sentence
9 to a term that is less than the minimum of the amended guidelines
10 range, except in the case of a defendant who originally received a
11 below-guidelines sentence based on substantial assistance to the
12 government," and rejecting various legal challenges to the
13 prohibition); see also *United States v. Tercero*, 734 F.3d 979,
14 981-84 (9th Cir. 2013) (similar).

15 Therefore, the Court DENIES Defendant's Motion (Dkt. No. 873).
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17 IT IS SO ORDERED.

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20 Dated: May 4, 2016
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DEAN D. PREGERSON
United States District Judge